

General Information Letter: A corporation qualified to do business in Illinois is required to file an Illinois income tax return for each taxable year for which it is required to file a federal income tax return.

April 14, 2003

Dear:

This is in response to your letter dated December 30, 2002. The nature of your request and the information you have provided requires that we respond with a General Information Letter (GIL). A GIL is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be accessed from the Department's web site at www.Iltax.com.

In your letter you have stated the following:

COMPANY is a publicly traded corporation organized under the laws of the State of Delaware with physical locations in the States of Virginia and Kansas. 2 of its wholly owned subsidiaries (LLC's in which it is the single member owner) collect defaulted consumer debt in your state through interstate commerce using letters and telephonic communication. Subsidiaries of the company also employ attorneys located within your state to judicially collect debt and to file suit, if necessary, in the name of the subsidiary which owns the defaulted account.

Based on these facts, would the parent company, COMPANY be required to file a state tax return and/or pay state taxes for monies collected within your state by any of its subsidiary LLC's.

RULING

The determination whether a taxpayer has nexus with Illinois is extremely fact-specific. Therefore, the Department does not issue rulings regarding whether a taxpayer has nexus with the State. For information regarding nexus, See Department of Revenue Regulations Section 100.9720, which may be accessed from the Department's web site. In addition, the following general information may be provided.

Section 502(a) of the Illinois Income Tax Act ("IITA") (35 ILCS 5/502(a)) sets forth the requirements for filing Illinois income tax returns. That section states in pertinent part as follows:

(a) In general. A return with respect to the taxes imposed by this Act shall be made by every person for any taxable year:

(1) For which such person is liable for a tax imposed by this Act, or

(2) In the case of a resident or in the case of a corporation which is qualified to do business in this State, for which such person is required to make a federal income tax return, regardless of whether such person is liable for a tax imposed by this Act.

Under this section, a corporation must file an Illinois income tax return if it incurs a liability for the tax imposed under Section 201 of the IITA, or is qualified to do business in Illinois and required to file a federal return. A corporation is liable for Illinois income tax under Section 201 if it computes "Illinois net income" as defined under IITA Section 202. IITA Section 202 defines Illinois net income as that portion of the taxpayer's "base income" as defined in Section 203, which is allocated or apportioned to Illinois under the provisions of Article 3 of the IITA, less certain deductions. The above provisions may be accessed through the Department's web site.

As stated above, this is a GIL. A GIL does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you have further questions regarding this GIL, please call (217) 782-7055. If you have additional questions regarding Illinois income tax laws, please visit the Department's web site at www.Iltax.com.

Sincerely,

Brian L. Stocker
Associate Counsel (Income Tax)